



Billing Code 4310-55

DEPARTMENT OF THE INTERIOR

[FWS-R4-FHC-2013-N258]

[FVHC98130406900-XXX-FF04G01000]

***Deepwater Horizon* Oil Spill; Draft Programmatic and Phase III Early Restoration Plan and Draft Early Restoration Programmatic Environmental Impact Statement.**

AGENCY: Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the Federal and State natural resource trustee agencies (Trustees) have prepared a Draft Programmatic and Phase III Early Restoration Plan and Draft Early Restoration Programmatic Environmental Impact Statement (Draft Phase III ERP/PEIS). The Draft Phase III ERP/PEIS considers programmatic alternatives to restore natural resources, ecological services, and recreational use services injured or lost as a result of the *Deepwater Horizon* oil spill. The restoration alternatives are comprised of early restoration project types; the Trustees additionally propose forty-four specific early restoration projects that are consistent

with the proposed early restoration program alternatives. The Trustees have developed restoration alternatives and projects to utilize funds for early restoration being provided under the Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement) discussed below. Criteria and evaluation standards under the OPA natural resource damage assessment regulations and the Framework Agreement guided the Trustees' consideration of programmatic restoration alternatives. The Draft Phase III ERP/PEIS evaluates these restoration alternatives and projects under criteria set forth in the OPA natural resource damage assessment regulations and the Framework Agreement. The Draft Phase III ERP/PEIS also evaluates the environmental consequences of the restoration alternatives and projects under NEPA. The purpose of this notice is to inform the public of the availability of the Draft Phase III ERP/PEIS and to seek public comments on the document.

This Notice of Availability also serves as notice that the Trustees intend to use components of existing restoration projects, as further described in the Draft Phase III ERP/PEIS, as required by 15 CFR 990.56(b)(3). In those instances, the projects were previously developed with public review and comment and are subject to current public review and comment; are adequate to compensate the environment and public as part of the Trustees' ongoing early restoration efforts; address resources that have been identified by Trustees as being injured by the *Deepwater Horizon* oil spill; and are reasonably scalable for early restoration purposes.

DATES:

Comments Due Date: We will consider public comments received on or before February 4, 2014.

Public Meetings: The Trustees have scheduled a series of public meetings to facilitate public review and comment on the Draft Phase III ERP/PEIS. Both written and verbal public comments will be taken at each public meeting. The Trustees will hold an open house for each meeting followed by a formal meeting. Each public meeting will include a presentation of the Draft Phase III ERP/PEIS. The public meeting schedule is as follows:

Date	Time	Location
Mon., Dec. 16, 2013	6:00 PM Open House 6:30 PM Public Meeting	Mobile, AL
Tues., Dec. 17, 2013	6:00 PM Open House 6:30 PM Public Meeting	Long Beach, MS
Tues., Jan. 14, 2014	5:30 PM Open House 6:00 PM Public Meeting	Belle Chasse, LA
Wed., Jan. 15, 2014	5:30 PM Open House 6:00 PM Public Meeting	Thibodaux, LA
Thurs., Jan. 16, 2014	5:30 PM Open House 6:00 PM Public Meeting	Lake Charles, LA
Tues., Jan. 21, 2014	6:00 PM Open House 6:30 PM Public Meeting	Port Arthur, TX
Wed., Jan. 22, 2014	6:00 PM Open House 6:30 PM Public Meeting	Galveston, TX
Thurs., Jan. 23, 2014	6:00 PM Open House 6:30 PM Public Meeting	Corpus Christi, TX
Tues., Jan. 28, 2014	6:00 PM Open House 6:30 PM Public Meeting	Pensacola, FL
Wed., Jan. 29, 2014	6:00 PM Open House 6:30 PM Public Meeting	Panama City, FL

ADDRESSES:

Obtaining Documents: You may download the Draft Phase III ERP/PEIS at

<http://www.gulfspillrestoration.noaa.gov> or <http://www.doi.gov/deepwaterhorizon>.

Alternatively, you may request a CD of the Draft Phase III ERP/PEIS (see FOR FURTHER INFORMATION CONTACT). You may also view the document at any of the public facilities listed at <http://www.gulfspillrestoration.noaa.gov>.

Submitting Comments: You may submit comments on the Draft Phase III ERP/PEIS by one of the following methods:

- Via the Web: <http://www.gulfspillrestoration.noaa.gov>.
- U.S. Mail: U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345.

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado at
nanciann_regalado@fws.gov <mailto:fw4coastalDERPcomments@fws.gov>.

SUPPLEMENTARY INFORMATION:

Introduction

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252 – MC252), experienced a significant explosion, fire and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of eighty-seven days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The State and Federal natural resource trustees (Trustees) are conducting the natural resource damage assessment for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses, and to determine the actions

required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete. Pursuant to the process articulated in the Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement), the Trustees have previously selected, and BP has agreed to fund, a total of 10 early restoration projects, expected to cost a total of approximately \$71 million, through the Phase I Early Restoration Plan/Environmental Assessment (Phase I ERP) and Phase II Early Restoration Plan/Environmental Review (Phase II ERP). These plans are available at: <http://www.gulfspillrestoration.noaa.gov/restoration/early-restoration/>

The Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Department of Defense (DOD);¹
- U.S. Environmental Protection Agency (USEPA);

¹ Although a trustee under OPA by virtue of the proximity of its facilities to the *Deepwater Horizon* oil spill, DOD is not a member of the Trustee Council and does not currently participate in Trustee decision-making.

- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Background

On April 20, 2011, BP agreed to provide up to \$1 billion toward early restoration projects in the Gulf of Mexico to address injuries to natural resources caused by the *Deepwater Horizon* oil spill. The Framework Agreement represents a preliminary step toward the restoration of injured natural resources. This agreement is intended to expedite the start of restoration in the Gulf in advance of the completion of the injury assessment process. The Framework Agreement provides a mechanism through which the Trustees and BP can work together “to commence implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable” prior to the resolution of the Trustees’ natural resource damages claim. Early restoration is not intended to, and does not fully address all injuries caused by the *Deepwater Horizon* oil spill. Restoration beyond early restoration projects will be required to fully compensate the public for natural resource losses including recreational use losses from the *Deepwater Horizon* oil spill.

The Trustees actively solicited public input on restoration project ideas through a variety of mechanisms including public meetings, electronic communication, and creation of a Trustee-wide public website and database to share information and receive public project submissions. Their key objective in pursuing early restoration is to secure tangible recovery of natural resources and natural resource services for the public's benefit while the longer-term process of fully assessing injury and damages is underway. The Trustees released, after public review of a draft, a Phase I Early Restoration Plan/Environmental Assessment (Phase I ERP/EA) in April 2012. Subsequently, the Trustees released, after public review of a draft, a Phase II Early Restoration Plan/ Environmental Review (Phase II ERP/ ER) in December 2012.

In addition to the 10 projects contained in the Phase I and Phase II Early Restoration Plans, the Trustees are proposing 44 additional early restoration projects in Phase III to address injuries from the *Deepwater Horizon* oil spill. The Trustees are proposing these projects at this time while continuing to work with BP to develop additional restoration projects in accordance with the Framework Agreement. The Draft Phase III ERP/PEIS is not intended to, and does not fully address all injuries caused by the spill or provide the extent of restoration needed to make the public and the environment whole.

Overview of the Draft Phase III ERP/PEIS

The Draft Phase III ERP/PEIS is being released in accordance with the Oil Pollution Act (OPA), the Natural Resources Damage Assessment (NRDA) regulations found in the Code of Federal Regulations (CFR) at 15 CFR 990, the National Environmental Policy Act (42 U.S.C.

4321 *et seq.*), and the Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill.

On June 4, 2013, the Trustees announced their intent to prepare an Early Restoration Plan, as well as a Programmatic Environmental Impact Statement (PEIS) under OPA and the National Environmental Policy Act (NEPA) to evaluate the environmental consequences of early restoration project types, as well as the early restoration projects the Trustees have proposed in the Draft Phase III ERP/PEIS. In accordance with NEPA, the Trustees conducted scoping to identify the concerns of the affected public and Federal agencies, States, and Indian tribes; involve the public in the decision making process; facilitate efficient early restoration planning and environmental review; define the issues and alternatives that will be examined in detail; and save time by ensuring that draft documents adequately address relevant issues. A scoping process reduces paperwork and delay by ensuring that important issues are considered early in the decision making process. To gather public input, the Trustees hosted six public meetings. The Trustees also accepted written comment electronically and via U.S. mail during the scoping period.

The Draft Phase III ERP/PEIS proposes early restoration programmatic alternatives and evaluates the potential environmental effects and cumulative effects of those alternatives. The Draft Phase III ERP/PEIS groups 12 project types into two categories: 1) Contribute to Restoring Habitats and Living Coastal and Marine Resources, and 2) Contribute to Providing and Enhancing Recreational Opportunities. These categories provide the basis for defining the list of four proposed alternatives included in the document:

- Alternative 1: No Action (No Additional Early Restoration);

- Alternative 2: Contribute to Restoring Habitats and Living Coastal and Marine Resources;
- Alternative 3: Contribute to Providing and Enhancing Recreational Opportunities; and
- Alternative 4 (Preferred Alternative): Contribute to Restoring Habitats, Living Coastal and Marine Resources, and Recreational Opportunities

The Trustees are considering 44 projects in the Draft Phase III ERP/PEIS. The total estimated cost for proposed Phase III projects is approximately \$625 million. Details regarding expenditures on projects are provided in the Draft Phase III ERP/PEIS.

The proposed restoration projects are intended to continue the process of using early restoration funding to restore natural resources, ecological services, and recreational use services injured or lost as a result of the *Deepwater Horizon* oil spill. The Trustees considered hundreds of projects leading to the identification of a potential 28 future early restoration projects announced in the May 6, 2013 Federal Register notice (78 FR 26319), and the document now proposes these 28 projects plus additional early restoration projects agreed upon by the Trustees and BP subsequent to the announcement. They considered both ecological and recreational use restoration projects to restore injuries caused by the *Deepwater Horizon* oil spill, addressing both the physical and biological environment, as well as the relationship people have with the environment.

Early restoration actions are not intended to provide the full extent of restoration needed to make the public and the environment whole. The Trustees anticipate that additional early restoration projects will be proposed in the future as the early restoration process continues.

Next Steps

As described above, public meetings are scheduled to facilitate the public review and comment process. After the public comment period ends, the Trustees will consider and address the comments received before issuing a Final Programmatic and Phase III Early Restoration Plan and Final Early Restoration Programmatic Environmental Impact Statement (Final Phase III ERP/PEIS). After issuing a Final Phase III ERP/PEIS, the Trustees will file negotiated stipulations for approved projects with the court. Approved projects will then proceed to implementation, pending compliance with all applicable State and Federal laws.

Invitation to Comment

The Trustees seek public review and comment on the Draft Phase III ERP/PEIS. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be publicly available at any time.

Administrative Record

The documents comprising the Administrative Record can be viewed electronically at the following location: <http://www.doi.gov/deepwaterhorizon>.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and the implementing Natural Resource Damage Assessment regulations found at 15 CFR 990.

Cynthia K. Dohner

DOI Authorized Official

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and Draft Early Restoration Programmatic Environmental Impact Statement~~**

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